

HB 451

20-5-101. Admittance of child to school. (1) The trustees shall assign and admit a child to a school in the district when the child is:

- (a) 6 years of age or older on or before September 10 of the year in which the child is to enroll but is not yet 19 years of age;
- (b) a resident of the district; and
- (c) otherwise qualified under the provisions of this title to be admitted to the school.

(2) The trustees of a district may assign and admit any nonresident child to a school in the district under the tuition provisions of this title.

(3) The trustees may at their discretion assign and admit a child to a school in the district who is under 6 years of age or an adult who is 19 years of age or older if there are exceptional circumstances that merit waiving the age provision of this section. The trustees may also admit an individual who has graduated from high school but is not yet 19 years of age even though no special circumstances exist for waiver of the age provision of this section.

(4) The trustees shall assign and admit a child who is homeless, as defined in the Stewart B. McKinney Homeless Assistance Act (Public Law 100-77), to a school in the district regardless of residence. The trustees may not require an out-of-district attendance agreement or tuition for a homeless child.

(5) Except for the provisions of subsection (4), tuition for a nonresident child must be paid in accordance with the tuition provisions of this title.

(6) The trustees' assignment of a child meeting the qualifications of subsection (1) to a school in the district outside of the adopted school boundaries applicable to the child is subject to the district's grievance policy. Upon completion of procedures set forth in the district's grievance policy, the trustees' decision regarding the assignment is final.

History: En. 75-6302 by Sec. 115, Ch. 5, L. 1971; R.C.M. 1947, 75-6302; amd. Sec. 2, Ch. 334, L. 1979; amd. Sec. 2, Ch. 558, L. 1979; amd. Sec. 74, Ch. 575, L. 1981; amd. Sec. 1, Ch. 120, L. 1989; amd. Sec. 1, Ch. 214, L. 1995; amd. Sec. 1, Ch. 374, L. 2007; amd. Sec. 1, Ch. 128, L. 2013.

20-7-411. Regular classes preferred -- obligation to establish special education program. (1) A child with a disability in Montana is entitled to a free appropriate public education provided in the least restrictive environment. To the maximum extent appropriate, a child with a disability, including a child in a public or private institution or other care facility, must be educated with children who do not have disabilities. Separate schooling or other removal of a child with a disability from the regular educational environment may occur only when the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

(2) The board of trustees of every school district or a state-operated adult health care facility providing special education services to its residents shall provide or establish and maintain a special education program for each child with a disability who is 6 years of age or older and under 19 years of age.

(3) The board of trustees of each elementary district shall provide or establish and maintain a special education program for each preschool child with a disability who is 3 years of age or older and under 7 years of age.

(4) (a) The board of trustees of a school district or a state-operated adult health care facility providing special education services to its residents may provide or establish and maintain a special education program for a child with a disability who is 2 years of age or under or who is 19 years of age or older and under 22 years of age.

(b) Programs established pursuant to subsection (4)(a) do not obligate the state, a school district, or a state-operated adult health care facility providing special education services to its residents to offer regular educational programs to a similar age group unless specifically provided by law.

(5) The board of trustees of a school district or a state-operated adult health care facility providing special education services to its residents may meet its obligation to serve persons with disabilities by establishing its own special education program, by establishing a cooperative special education program, by participating in a regional services program, or by contracting for services from qualified providers. A state-operated adult health care facility providing special education services to its residents may also meet its obligation by coordinating appropriate services with the resident's school district of residence, the local high school district, or both.

(6) The trustees of a school district or a state-operated adult health care facility providing special education services to its residents shall ensure that assistive technology devices or assistive technology services, or both, are made available to a child with a disability if required as a part of the child's special education services, related services, or supplementary aids.

History: En. 75-7805 by Sec. 423, Ch. 5, L. 1971; amd. Sec. 1, Ch. 123, L. 1971; amd. Sec. 2, Ch. 93, L. 1974; amd. Sec. 6, Ch. 539, L. 1977; R.C.M. 1947, 75-7805; amd. Sec. 3, Ch. 558, L. 1979; amd. Sec. 1, Ch. 258, L. 1987; amd. Sec. 4, Ch. 249, L. 1991; amd. Sec. 3, Ch. 356, L. 1993; amd. Sec. 99(4), Ch. 51, L. 1999; amd. Sec. 3, Ch. 255, L. 2005; amd. Sec. 2, Ch. 44, L. 2011.